

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
Atlanta Division

SONAL PATEL,)	
)	
)	CIVIL ACTION
Plaintiff,)	
vs.)	
)	FILE NO.
THE KROGER COMPANY; and)	
COCA-COLA BOTTLING COMPANY)	
UNITED – EAST, LLC,)	
)	
Defendants.)	

**ANSWER OF DEFENDANT COCA-COLA BOTTLING
COMPANY UNITED – EAST, LLC**

COMES NOW, Coca-Cola Bottling Company United – East, LLC, named
as a Defendant in the above-styled civil action, and responds to Plaintiff's
Complaint, showing the Court as follows:

FIRST DEFENSE

Plaintiff's Complaint fails to state a claim or cause of action upon which
relief can be granted against this defendant.

SECOND DEFENSE

The sole and proximate cause of the incident complained of was negligence on
the part of the plaintiff, and on account thereof, this Defendant is not liable to the
Plaintiff in any amount whatsoever.

THIRD DEFENSE

The negligence of the Plaintiff was equal to or greater than any negligence chargeable to this defendant, which negligence is specifically denied, and on account thereof, Plaintiff is barred from any recovery against this defendant whatsoever.

FOURTH DEFENSE

In the exercise of ordinary care, Plaintiff could have avoided the incident complained of, and on account therefore, she is barred from any recovery against this defendant whatsoever.

FIFTH DEFENSE

The sole and proximate cause of the incident referred to in Plaintiff's Complaint was the negligence of a third party and on account thereof, Plaintiff is barred from any recovery against this Defendant whatsoever.

SIXTH DEFENSE

Plaintiff's Complaint fails to state a claim upon which an award of attorney's fees or expenses of litigation can be awarded.

SEVENTH DEFENSE

Some or all of Plaintiff's claims are barred by the statute of limitations.

NINTH DEFENSE

Without waiving any of the above-enumerated defenses, this Defendant answers the preamble and numbered paragraphs of Plaintiff's Complaint as follows:

1.

This defendant admits the allegations in paragraph 1 of Plaintiff's Complaint.

2.

This defendant admits the allegations in paragraph 2 of Plaintiff's Complaint.

3.

This defendant denies the allegations in paragraph 3 of plaintiff's complaint

4.

This defendant admits that the case was removed to federal court and was dismissed through a stipulation on October 14, 2022, but this defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 4 of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

5.

This defendant admits the allegations in paragraph 5 of Plaintiff's Complaint.

6.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

7.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

8.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

9.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

10.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 10 of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

11.

This defendant admits the allegations in paragraph 11 of Plaintiff's Complaint.

12.

This defendant admits the allegations in paragraph 12 of Plaintiff's Complaint.

13.

This defendant admits the allegations in paragraph 13 of Plaintiff's Complaint.

FACTS OF THE CASE

14.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 14 of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

15.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 15 of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

16.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 16 of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations; however, this defendant denies that it created or had knowledge of a hazardous condition.

17.

This defendant denies the allegations in paragraph 17 of Plaintiff's Complaint.

18.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 18 of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations. This defendant denies any allegation in the definition of "hazardous condition" that it created or had knowledge of a hazardous condition.

19.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 19 of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

20.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 20 of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

21.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 21 of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations. This defendant denies any allegation in the definition of "Incident" that it created or had knowledge of a hazardous condition.

COUNT I – NEGLIGENCE OF DEFENDANTS

22.

Responding to paragraph 22 of Count I of Plaintiff's Complaint, this Defendant incorporates herein its responses to paragraphs 1 through 21 above as if fully restated.

23.

This defendant denies the allegations in paragraph 23 of Count I of Plaintiff's Complaint.

24.

This defendant denies the allegations contained in paragraph 24 of Count I of Plaintiff's Complaint and all sub-paragraphs therein.

25.

This defendant denies the allegations contained in paragraph 25 of Count I of Plaintiff's Complaint, as well as any allegation in the definition of "Incident" that it created or had knowledge of a hazardous condition.

COUNT II – RESPONDEAT SUPERIOR OF DEFENDANTS

26.

Responding to paragraph 26 of Count II of Plaintiff's Complaint, this Defendant incorporates herein its responses to paragraphs 1 through 25 above as if fully restated.

27.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 27 of Count II of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

28.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 28 of Count II of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

29.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 29 of Count II of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

30.

This defendant denies the allegations contained in paragraph 30 of Count II of Plaintiff's Complaint, as well as any allegation in the definition of "Incident" that it created or had knowledge of a hazardous condition.

31.

This defendant denies the allegations contained in paragraph 31 of Count II of Plaintiff's Complaint, as well as any allegation in the definition of "Incident" that it created or had knowledge of a hazardous condition.

32.

This defendant denies the allegations contained in paragraph 32 of Count II of Plaintiff's Complaint, as well as any allegation in the definition of "Incident" that it created or had knowledge of a hazardous condition.

COUNT III – PREMISES LIABILITY OF DEFENDANT KROGER

33.

Responding to paragraph 33 of Count III of Plaintiff's Complaint, this Defendant incorporates herein its responses to paragraphs 1 through 32 above as if fully restated.

34.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 34 of Count III of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

35.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 35 of Count III of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations.

36.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 36 of Count III of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations. This defendant denies any allegation in that it created a "hazardous condition" or had knowledge of a hazardous condition.

37.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 37 of Count III of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations. This defendant denies any allegation that it created a "hazardous condition" or had knowledge of a hazardous condition.

38.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 38 of Count III of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations. This defendant denies any allegation that it created a "hazardous condition" or had knowledge of a hazardous condition.

39.

This defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 39 of Count III of Plaintiff's Complaint, and therefore, this defendant can neither admit nor deny said allegations. This defendant denies any allegation that it created a "hazardous condition" or had knowledge of a hazardous condition.

COUNT IV – DAMAGES

40.

Responding to paragraph 40 of Count IV of Plaintiff's Complaint, this Defendant incorporates herein its responses to paragraphs 1 through 39 above as if fully restated.

41.

This defendant denies the allegations contained in paragraph 41 of Count IV of Plaintiff's Complaint.

42.

This defendant denies the allegations contained in paragraph 42 of Count IV of Plaintiff's Complaint.

43.

This defendant denies the allegations contained in paragraph 43 of Count IV of Plaintiff's Complaint.

44.

This defendant denies the allegations contained in paragraph 44 of Count IV of Plaintiff's Complaint.

45.

Responding to that last unnumbered paragraph of Plaintiff's Complaint, and all subparagraphs therein, this Defendant denies that Plaintiff is entitled to a recovery against it in any form, fashion or amount whatsoever.

46.

Any allegation of Plaintiff's Complaint not specifically responded to above, is hereby denied.

WHEREFORE, having fully responded to Plaintiff's Complaint, and having shown the Court that Plaintiff is not entitled to a recovery against this Defendant in any form, fashion or amount whatsoever, defendant Coca-Cola Bottling Company United – East, LLC respectfully prays this Court for an Order dismissing it without liability and casting all costs upon the Plaintiff.

STRAWINSKI & STOUT, P.C.

By: /s/ Nicole Wolfe Stout
NICOLE WOLFE STOUT
Georgia Bar No. 773370
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Bottling Company United–East, LLC

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This is to certify that the foregoing pleading was prepared using Times New Roman 14-point font in accordance with Local Rule 5.1(B).

By: /s/ Nicole Wolfe Stout
Nicole Wolfe Stout

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the foregoing
ANSWER OF DEFENDANT COCA-COLA BOTTLING COMPANY UNITED –
EAST, LLC, by electronic filing and service upon:

Michael M. Calabro, Esq.
Lowe Law Firm, P.C.
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This 26th day of May, 2023.

/s/ Nicole Wolfe Stout
NICOLE WOLFE STOUT

18-1888